

Jurisdiction and Venue

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 7(b) of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 626(b) (the “ADEA”), which incorporates by reference Sections 16(c) and Section 17 of the Fair Labor Standards Act of 1938 (the “FLSA”), as amended, 29 U.S.C. §§ 216(c) and 217.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Middle District of Pennsylvania.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the “Commission”), is the agency of the United States of America charged with the administration, interpretation and enforcement of the ADEA and is expressly authorized to bring this action by Section 7(b) of the ADEA, 29 U.S.C. § 626(b), as amended by Section 2 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and by Public Law 98-532 (1984), 98 Stat. 2705.

4. At all relevant times, Defendant, Michael A. Sisk, DDS, LLC (“Defendant” or “Sisk, LLC”) has been a Pennsylvania limited liability corporation

and has continuously been doing business in the State of Pennsylvania in either Harrisburg, PA, Camp Hill, PA, or both.

5. Sisk, LLC purchased Daniel F. Dunn Jr., D.M.D., P.C., d/b/a Capital City Dental Center on or around August 7, 2015, which thereafter continued to do business as Capital City Dental Care. At all relevant times, Capital City Dental Center/Care was located and doing business at 3401 Hartzdale Dr., Suite 122, Camp Hill, PA 17011 (“Capital City” or “Camp Hill location”). Capital City had been doing business under the ownership of Daniel F. Dunn Jr., D.M.D., P.C. at the Camp Hill location for over 20 years prior to its sale to Sisk, LLC.

6. The Camp Hill location had at least 20 employees for at least 20 weeks in 2014, the year preceding the year the discriminatory conduct occurred.

7. At all relevant times, Sisk, LLC has owned and operated, and continues to own and operate an additional dental practice at 4700 Union Deposit Rd., Suite 210, Harrisburg, PA 17111, doing business as Capitol Dental Care, which has been continuously operating since 2010.

8. The Camp Hill location, when combined with Sisk, LLC’s employees at other locations for the weeks subsequent to Sisk, LLC’s purchase of it, had at least 20 employees for at least 20 weeks in 2015, the year the discriminatory conduct occurred.

9. At all relevant times, Defendant Sisk, LLC has continuously been an employer engaged in an industry affecting commerce under Sections 11(b), (g) and (h) of the ADEA, 29 U.S.C. §§ 630(b), (g) and (h).

10. At all relevant times, the Camp Hill location, both while owned and operated by Daniel F. Dunn Jr., D.M.D., P.C. and during the time subsequent to Sisk, LLC's purchase of it, has continuously been an employer engaged in an industry affecting commerce under Sections 11(b), (g), and (h) of the ADEA, 29 U.S.C. §§ 630(b), (g), and (h).

CONCILIATION

11. Prior to institution of this lawsuit, the Commission's representatives attempted to eliminate the unlawful employment practices alleged below and to effect voluntary compliance with the ADEA through informal methods of conciliation, conference and persuasion within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

STATEMENT OF CLAIMS

12. Since at least September 2015, Defendant Sisk, LLC has engaged in unlawful employment practices at its office located at 3401 Hartzdale Dr., Suite 122, Camp Hill, PA 17011, in violation of Section 4 of the ADEA, 29 U.S.C. § 623(a)(1), by discharging a class of individuals because of their age.

13. From September 2015 through November 2015, Defendant terminated eight out of nine Dental Hygienists over age 40. Meanwhile, from August 2015 through February 2018, Defendant replaced these terminated Dental Hygienists with 13 out of 14 employees who were under age 40.

a. Defendant's owner, Dr. Michael A. Sisk ("Dr. Sisk"), terminated Charging Party Tami Halstead ("Halstead"), age 56, without warning and without any stated reason on September 23, 2015 and replaced her with another hygienist, age 30. Before Dr. Sisk terminated her, Halstead had been working at Capital City's Camp Hill, PA location for over 20 years, and was qualified for the position.

b. Dr. Sisk terminated Charging Party Terry Doyle ("Doyle"), age 59, without warning and without any stated reason on October 6, 2015 and replaced her with another hygienist, age 26. Before Dr. Sisk terminated her, Doyle had been working at Capital City's Camp Hill, PA location for over 17 years and was qualified for the position.

c. Dr. Sisk terminated Charging Party Jennifer Smeal ("Smeal"), age 41, without warning and without any stated reason on October 6, 2015 and replaced her with another hygienist, age 29. Before Dr. Sisk terminated her, Smeal had been working at Capital City's Camp Hill, PA location for over 12 years and was qualified for the position.

d. Dr. Sisk terminated Charging Party Angela Smith (“Smith”), age 45, without warning and without any stated reason on October 13, 2015 and replaced her with another hygienist, age 29. Before Dr. Sisk terminated her, Smith had been working at Capital City’s Camp Hill, PA location for over 16 years and was qualified for the position.

e. Dr. Sisk terminated Charging Party Jennifer Veinos (“Veinos”), age 43, without warning and without any stated reason on November 12, 2015 and replaced her with another hygienist, age 29. Before Dr. Sisk terminated her, Veinos had been working at Capital City’s Camp Hill, PA location for over 15 years and was qualified for the position.

f. From October 2015 through November 2015, Dr. Sisk terminated an additional class of similarly situated employees at least age 40 without warning and without any stated reason, and replaced them with 14 new hires, 13 of whom were under the age of 40.

14. The unlawful employment practices complained of in paragraphs 12 through 13 above were willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Sisk, LLC, its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of age.

B. Order Defendant Sisk, LLC to institute and carry out policies, practices, and programs which provide equal employment opportunities for individuals 40 years of age and older, and which eradicate the effects of its past and present unlawful employment practices.

C. Grant a judgment requiring Defendant Sisk, LLC to pay appropriate back wages in an amount to be determined at trial, an equal sum as liquidated damages, and prejudgment interest to individuals whose wages are being unlawfully withheld as a result of the unlawful terminations complained of above.

D. Order Defendant Sisk, LLC to make whole all individuals adversely affected by the unlawful practices described above, by providing the affirmative relief necessary to eradicate the effects of its unlawful practices, including but not limited to reinstatement of Halstead, Doyle, Smeal, Smith, Veinos, and the class of similarly-situated individuals, or in the alternative, front pay.

E. Grant such further relief as the Court deems necessary and proper in the public interest.

F. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

JAMES L. LEE
Acting General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

DEBRA M. LAWRENCE
Regional Attorney

/s/ Maria Luisa Morocco
MARIA LUISA MOROCCO
Supervisory Trial Attorney

/s/ John S. Brubaker
JOHN S. BRUBAKER
Trial Attorney
EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
Philadelphia District Office
801 Market Street, Suite 1300
Philadelphia, PA 19107-3127
Phone: (267) 589-9762
Fax: (215) 440-2848
john.brubaker@eeoc.gov
IL6314685